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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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United States of America,

Plaintiff,

vs.

Richard Ward,

Defendant.

2:14-cr-00306-LDG-NJK

**Government's Reply to Defendant's
Response to Government's Supplemental
Motion for Reconsideration (Doc. #94)**

COMES NOW, the United States of America, by and through Daniel G. Bogden, United States Attorney, and Alexandra Michael, Assistant United States Attorney, and hereby submits its reply to *Defendant's Response to Government's Supplemental Motion for Reconsideration* (Doc. #94), which was filed by and through his attorney Assistant Federal Public Defender William Carrico on April 2, 2015.

In filing its *Supplemental Motion for Reconsideration*, the Government addressed the specific issues included in the Court's Order. Doc. #78. The Government stands by the points and authorities included in its supplemental motion. Defendant's response to the motion fails to address the Government's lack of opportunity to address the Court's order specifically giving the government the alternative means of having LVMPD produce the files directly to the Court, which order raised issues about (a) separate sovereignty; and (b) whether the Court has and how

1 it can gain jurisdiction over LVMPD when it is not a party to the case. While the Government
2 did not find controlling law on the sovereignty issue, which alone implicates principles of
3 reasonable foreseeability and newly discovered evidence, given the sensitive nature of one court
4 ordering a separate sovereign to produce sensitive personal information when the sovereign is
5 not a party to the case, the Government felt compelled to brief the issue. Interestingly,
6 defendant's response fails to include any case law to the contrary. Rather, the defendant's
7 attempts to compare the instant case with an Order that was issued in *United States v. Abdul*
8 *Howard*, Case No. 2:13-cr-00186-GMN-VCF at Doc. #150, to support his arguments. As the
9 Government noted in its *Response to Motion for 17(c) Subpoena*, Doc. #97, such comparison is
10 improper. Contrary to the instant case, where Detective Kitchen's matter is both **open and**
11 **pending**, the officer and criminal case in the *Howard* matter were closed at the time the Order at
12 issued and the relevant documents produced.

13 For the reasons set forth in its *Supplemental Motion for Reconsideration Pursuant to the*
14 *Court's Order* (Doc. #91), the Government submits that the Court may issue a Rule 17(c)
15 subpoena for the documents sought by the Court per the Court's order, Doc. #78.
16 The government respectfully requests that the Court reconsider the Magistrate Judge's Order,
17 Doc. #78.

18 Dated this 9th day of April, 2015.

19 Respectfully submitted
20 DANIEL G. BOGDEN
21 United States Attorney

22 //s//
23 ALEXANDRA MICHAEL
24 Assistant United States Attorney
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CERTIFICATE OF SERVICE

I, Alexandra Michael, do hereby certify that on April 9, 2015, a copy of the
Attached *Government's Reply to Defendant's Response to Government's Supplemental Motion*
for Reconsideration (Doc. #94) was sent by electronic mail to the person hereinafter named, at
the place and address stated below, which is the last known address:

Addressee: William Carrico, AFD
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
Counsel for Defendant WARD
DATED: April 6, 2015

/s/ Alexandra Michael
ALEXANDRA MICHAEL
Assistant United States Attorney